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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,736	10/10/2001	Edward Christopher Miller	480180.402	9382

34395 7590 03/09/2007
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EXAMINER

BAYERL, RAYMOND J

ART UNIT	PAPER NUMBER
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2173

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/975,736

Applicant(s)

MILLER ET AL.

Examiner

Raymond J. Bayerl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 3 – 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As noted in the previous Office action, the phrase “the user” lacks clear antecedent basis earlier in the claims, which mention nothing of such a “user”—just a “portable media device”.

Applicant does not understand this rejection, as given at page 6 of the 15 May 2006 response, because “the first element of claim 1 reads: ‘a housing sized to be held by a user.’”. But it is claim 2 upon which claims 3, 4 depend, not claim 1, and it lacks this mention of “a user”.

3. Claims 1 – 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Chung et al. (U.S. Patent Number 6,628,963), hereinafter referred to as Chung.

As per independent claim 1, Chung disclose a portable multimedia player that contains a portable phone for modem connection, multimedia control sections that operate the entire portable device and including a CPU, a control circuit, a memory having a predetermined storage capacity to store audio or video files that can be downloaded by online communication, a system ROM for predetermined functionality of the portable device, a key input section having a plurality of functions for MPEG-1 video functions or MP3 audio signal, an audio codec mixing sections adapted to output the

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audio signal, and a LCD screen to display digital image or functionality of operation of portable device. This is stated in the "Abstract".

Significantly in Chung, the "digital data" that is accessed may be from a diversity of sources: the present invention has advantages in that audio equipment, video equipment, an electronic pocketbook, an alarm, a communication device, a voice recorder are integrated in function by one multimedia player (col 3, lines 32 – 38).

Chung describes in detail the access of such "data" from online and CD sources (col 1, lines 40 – 41), and that for a CD player, a CD-ROM driver to reproduce a CD media is employed (something that would not be used in downloaded MP3 files). The diversity of sources and their accompanying specialized interfaces to the source media (e.g., CD vs online) means that when "digital data" is accessed, the request must be followed by a determination of "a data type of the digital data", which in turn drives the selection of "one of the plurality of CODECs based on the data type". See also claims 6, 9, 10, 13, 14 on this matter of plural "CODECs".

The various user interfaces obtained in Chung are examples of "display of data", and in a format established by "the data type". Thus, in implementing the final display in Chung, "a plurality of display managers" must follow the "CODECs".

Independent claim 2 is basically a re-statement of what appears in claim 1, but without the "housing", "circuit board" and "battery power supply". The "data type" in this claim is used for "formatting display data to generate a display based on the data type". However, it can also be said that a "formatting" must take place to access the data

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stream of Chung, where individual “audio” sources are obtained in their own formats, and thus with their own “CODEC” and “display” formatting.

As per the “input device” of claim 3, see the interactive interface appearing in Chung’s col. 1 lines 41-46. A “touch-sensitive device” as per claim 4 is suggested by the alternatives for input devices as is given at col 3, lines 28 – 31, where display-based controls would have a possible “first configuration” and “second configuration” “based on...type”, as in claim 5.

Independent claim 7 (and see also independent claim 11) merely has a “method of selecting a CODEC” via “user operation”, with a result of “displaying data in a predetermined format selected for proper operation”, only as has been discussed above, Chung does this also, in rendering from diverse sources.

Claim 8’s “command controls for operation with the selected CODEC” are further to be expected in Chung, where the individual sources need their user control to be useful. A similar line of reasoning applies to claim 12.

4. Applicant's arguments filed 15 May 2006 have been fully considered but they are not persuasive.

At page 7, applicant asserts that “The Examiner does not specifically provide a detailed rejection of claim 1”. It is hoped, with this review by the Examiner who has succeeded the original Examiner after his leaving the Art Unit in 2005, that these details are now better set forth in the explanation above.

Concerning Chung, applicant argues at page 7 that there is no “teaching, disclosure, mention, or suggestion of multiple display managers that can be selected by

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the processor...based on a data type". But this is to ignore the basic advantage being set forth in Chung, which is that plural source-types, with presumably-different coding standards, may nevertheless be rendered upon a single display device, meaning such specific modules would have to be there, in order for it to work. In leading up to the final output, such arrangements constitute "display managers", in that they must cooperate with the display unit in Chung to be operated successfully. A CD has an inherently different interface than the example of online MP3 access in Chung's example, and must be provided for.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

During a new and updating search, the Examiner noted that the additionally-cited US references (see attached form PTO-892) also relate to the presentation of MPEG-encoded data via an operator-interactive device.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Raymond J. Bayerl, whose telephone number is (571) 272-4045. The Examiner can normally be reached on M – Th from 9:00 AM to 4:00 PM ET.

8. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Kristine Kincaid, can be reached at 571-272-4063. All patent application related correspondence transmitted by FAX **must be directed** to the central FAX number (571) 273-8300.

9. Any inquiry of a general nature or relating to the status of this application of proceeding should be directed to the receptionist, whose telephone number is (571) 272-2100.


RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173

8 March 2007